

REMARKS

Claim rejections under 35 USC 103

Claims 1, 4-9, and 12 have been rejected under 35 USC 103(a) as being unpatentable over Poppenga (2003/0120624) in view of Kaplan (6,594,674). Claims 2 and 3 have been rejected under 35 USC 103(a) as being unpatentable over Poppenga in view of Kaplan, and further in view of Barmettler (2003/0023770). Claims 10 and 13 have been rejected under 35 USC 103(a) as being unpatentable over Poppenga in view of Kaplan, and further in view of Platt (5,421,009). Claim 11 has been rejected under 35 USC 103(a) as being unpatentable over Poppenga in view of Kaplan, and further in view of Maxwell (6,567,860).

Claims 1 and 13 are independent claims, from which the remaining pending claims ultimately depend. Applicant respectfully submits that claims 1 and 13 at least as amended are patentable over Poppenga in view of Kaplan, such that the remaining pending claims are patentable at least because they depend from patentable base independent claims. Applicant now discusses three separate reasons why claims 1 and 13 at least as amended are patentable over Poppenga in view of Kaplan. In these discussions, claim 1 is discussed as representative of both claims 1 and 13 insofar as the present rejections are concerned.

First reason why claimed invention is patentable

The claimed invention has been amended to better recite the subject matter that Applicant is claiming. In particular, the functionality “determining which drivers are needed for devices on the client computing systems that are not automatically found and installed during vendor-specified operating system installation,” “creating entries for the drivers within a master driver file,” and “for each client computing system, creating references within an unattended installation file to the entries for the drivers within the master driver file” are all performed *by a server computing system responsible for installing operating systems on the client computing systems*

(see patent application as filed, p. 8, ll. 18-19; p. 10, ll. 15-16; p. 11, ll. 1-2; and p. 12, ll. 3-6). That is, it is not just any server computing system that performs this functionality, but rather the server computing system that is responsible for installing operating systems on the client computing systems that performs this functionality.

Applicant respectfully submits that Poppenga in view of Kaplan does not suggest this aspect of the invention as amended. For instance, in Poppenga in view of Kaplan, the server computing system is the web server 14 and/or the database server 12 of FIG. 1 of Poppenga. However, the servers 12/14 are simply to provide a mechanism by which device drivers can be located, and downloaded to and installed at the client computing system 20. The servers 12/14 are not described in Poppenga in view of Kaplan as being responsible for installing operating systems on the client computing systems. For at least this reason, therefore, the claimed invention is not suggested by Poppenga in view of Kaplan.

In fact, Poppenga in view of Kaplan actually teaches away from the servers 12/14 being responsible for installing operating systems on the client computing systems. This is because the client computing system 20 interacts with the servers 12/14 over a web site 18 (see, e.g., Poppenga, paras. [0027]-[0032]). However, if an operating system is not yet installed on the client computing system 20 (i.e., such that the servers 12/14 are responsible for installing the operating system on the client computing system 20 as in the invention), then there is no way for the client computing system 20 to communicate with the servers 12/14 over the web site 18. Thus, the servers 12/14 cannot be responsible for installing an operating system on the client computing system 20 if the servers 12/14 cannot communicate with the client computing system 20 prior to the operating system being installed on the client computing system 20. That is, communication between the client computing system 20 with the servers 12/14 over the web site 18 requires that an operating system already has been installed on the client computing system 20. Therefore, the servers 12/14 communicate with the client computing system 20 over the web site 18 after the operating system has already been installed on the client computing system 20, and

thus cannot be responsible for installing the operating system on the client computing system 20, as in the claimed invention.

Second reason why claimed invention is patentable

The claimed invention has further been amended so that the server computing system creates entries for the drivers within a master driver file *without user interaction*. That is, the creation of the entries within the master driver file is performed by the server computing system *without user interaction*. For instance, in the patent application as filed, the server computing system 102 determines which of these drivers are needed, as described on page 10, lines 15-22. Thereafter, the server computing system 102 creates the entries for these drivers, as described on page 11, lines 1-15. This process is part of an “unattended” operating installation process provided by the invention, as described on page 6, lines 1-22. This process is thus advantageous over prior art processes requiring “manual” installation, as described on page 4, lines 5-14. Therefore, the server computing system creating entries for the drivers within the master driver file *without user interaction* is inherent within the patent application as filed.¹

Applicant respectfully submits that Poppenga in view of Kaplan does not suggest this aspect of the invention as amended. The Examiner has indicated that Poppenga in view of Kaplan suggests the creation of entries for drivers within a master driver file in paragraph [0030] of

¹ Applicant also notes that the MPEP states “[t]he subject matter of [a] claim need not be described literally (i.e., using the same terms or in haec verba) in order for the disclosure to satisfy the description requirement.” (MPEP sec 2163.02) In this respect, the MPEP states:

By disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it. The application may later be amended to recite the function, theory or advantage without introducing prohibited new matter.

(MPEP sec. 2163.07(a))

Poppenga. It is noted that in this paragraph, a “customer obtains the asset number of the desired printer 26 either by a search of the MPP website 18 or via visual inspection of an identification tag on the desired printer 26,” such that “the customer selects or enters the printer asset number into an appropriate field of the MPP website 18 to initiate automatic driver selection, downloading, installation, and configuring.” As such, it cannot be said that the creation of driver entries within a master driver file is performed in Poppenga in view of Kaplan *without user interaction* as in the claimed invention. Rather, a customer (i.e., a user) has to obtain an asset number of the desired printer, where this asset number that is user-obtained permits a corresponding driver entry to be created. For this reason as well, the claimed invention is not *prima facie* obvious and unpatentable over Poppenga in view of Kaplan.

Third reason why claimed invention is patentable

The claimed invention as previously presented recites “creating *references* within an unattended installation file for the client computing system *to the entries* for the drivers of the devices for the client computing system *within the master driver file*.” That is, *references* to the entries within the master driver file are *created within the unattended installation file*. Applicant notes that the terminology “reference” is relevantly defined by the Internet web site www.wikipedia.org as “an object containing information which refers to data stored elsewhere, as opposed to containing the data itself” (see en.wikipedia.org/wiki/Dereference). This, in the claimed invention the reference created within the unattended installation file is an object that refers to the data (i.e., the driver entry) stored elsewhere (i.e., within the master driver file), as opposed to this data/driver entry being stored within the unattended installation file itself.

Applicant respectfully submits that Poppenga in view of Kaplan does not suggest this aspect of the invention as previously presented. The Examiner has indicated that Poppenga in view of Kaplan suggests this inventive aspect in paragraph [0032], lines 1-12, of Poppenga. However, in this paragraph, a “driver package builder 34 retrieves the initially selected from the

device driver database 30 and automatically generates an appropriate accompanying configuration file o[r] files . . . to accompany the driver installation” such that the “automatically selected driver and accompanying configuration files are made available to the customer 20 via the MPP website 18 for automatic downloading, installation, and configuration.”

It is thus readily apparent that no *reference* is created within the unattended installation file to an *entry* for a driver file *within the master driver file* in Poppenga in view of Kaplan. The driver file *itself* is retrieved from the device driver database 30, the latter which presumably corresponds to the master driver file of the invention. As such, no reference is created to an *entry* within the database 30, but rather the entire driver file is *itself* retrieved in Poppenga in view of Kaplan. For instance, the configuration files do not have any *reference* created within them to an *entry* for a driver *within the database 30*; rather, at best, the configuration files refer to the *driver file itself* – and not to the *entry* for the driver file, as in the claimed invention.

Stated another way, in the claimed invention you create an entry within a master driver file, and then you create a reference within an unattended installation file to this entry within the master driver file. By comparison, in Poppenga in view of Kaplan, you retrieve a driver file from the master driver file, and then you may create a reference within the configuration file to this driver file itself. You do not create a *reference within the configuration file to an entry within the master driver file* in Poppenga in view of Kaplan (where this entry is for a driver file), in contradistinction to the claimed invention. Indeed, it would not make sense to do so, since Poppenga in view of Kaplan *retrieves the entire driver file* from the master driver file, and the driver file is passed to the client computing system; that is, if you are passing the entire driver file to the client computing system, then you do not have to create any reference to an entry for this driver file as stored in the master drive file, because you *already have* the driver file and can reference it directly. Compare this situation to the invention, in which you just create a reference to an *entry* for the driver file within the master driver file.

For this reason as well, the claimed invention is *prima facie* nonobvious and patentable over Poppenga in view of Kaplan.

Conclusion

Applicants have made a diligent effort to place the pending claims in condition for allowance, and request that they so be allowed. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Applicants' Attorney so that such issues may be resolved as expeditiously as possible. For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,



Michael A. Dryja, Reg. No. 39,662
Attorney/Agent for Applicant(s)

October 30, 2008
Date

Law Offices of Michael Dryja
1474 N Cooper Rd #105-248
Gilbert, AZ 85233
tel: 425-427-5094
fax 425-563-2098